

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 22-cv-22718-ALTONAGA/DAMIAN

AUGUST IMAGE, LLC,

Plaintiff,

vs.

AUGE INTERNACIONAL
MEDIA LLC,

Defendant.

**ORDER TO SHOW CAUSE WHY DEFENDANT
SHOULD NOT BE HELD IN CONTEMPT**

THIS CAUSE is before the Court on Plaintiff, August Image, LLC's ("Plaintiff"), Motion for Order to Show Cause Why Defendant Should Not Be Held in Contempt, filed June 8, 2023. [ECF No. 22]. The Motion was referred to the undersigned by the Honorable Cecilia M. Altonaga, Chief United States District Judge, to take all necessary and proper action as required by law. [ECF No. 23]. *See* 28 U.S.C. § 636(b)(1)(A).

THIS COURT has considered the Motion and the pertinent portions of the record and is otherwise fully advised in the premises. In the Motion, Plaintiff seeks the entry of an order requiring Defendant, Auge Internacional Media, LLC ("Defendant"), to show cause why it should not be held in contempt of court for failure to comply with the Court's April 3, 2023, Order, which required Defendant to serve responses to Plaintiff's First Request for Production and First Set of Interrogatories on or before April 17, 2023. [ECF No. 21].

A party seeking civil contempt must show by clear and convincing evidence that the alleged contemnor violated the court's prior orders. *Chairs v. Burgess*, 143 F.3d 1432, 1436

(11th Cir. 1998) (citing *U.S.A v. Roberts*, 858 F.2d 698 (11th Cir. 1988)) “This requires proving that (1) the allegedly violated order was valid and lawful; (2) the order was clear and unambiguous; and (3) the alleged violator had the ability to comply with the order.” *S.E.C. v. Greenberg*, 105 F. Supp. 3d 1342, 1345 (S.D. Fla. 2015) (Hurley, J.) (quoting *Ga. Power Co. v. N.L.R.B.*, 484 F.3d 1288, 1291 (11th Cir. 2007)).

As set forth in the Motion, on April 3, 2023, the Court ordered Defendant to serve responses to Plaintiff’s discovery requests in aid of execution. [ECF No. 21]. Plaintiff indicates it served the Court’s April 3, 2023, Order on Defendant by FedEx on April 3, 2023, but that Defendant has failed to respond to the discovery at issue. Mot. at ¶¶ 7-8. Plaintiff also certifies that a copy of its Motion was served on Defendant by U.S. Mail and email on June 8, 2023. *Id.* at ¶ 4. Finally, Plaintiff certifies that counsel has been in contact with Defendant’s representative regarding the underlying requests, the Motion to Compel, and the Motion before the Court, yet Defendant has not responded nor offered any reason to the Court for failing to do so. Based on a review of the record in this case and the information provided by Plaintiff, it appears Defendant has violated the Court’s Orders.

Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff’s Motion for Order to Show Cause Why Defendant Should Not be Held in Contempt [ECF No. 22] is **GRANTED**. It is further

ORDERED that Defendant shall appear on **July 6, 2023, at 2:00 pm** before the undersigned at the C. Clyde Atkins United States Courthouse, 301 North Miami Avenue, 5th Floor, Miami, Florida 33128, **to show cause** why an order finding it in civil contempt for failure to comply with Plaintiff’s discovery requests and the Court’s Orders should not be entered against it. It is further

ORDERED that by **June 27, 2023**, Plaintiff's counsel shall mail a copy of this Order through certified mail (or another service providing for tracking and requiring a signature upon receipt) to Defendant. Plaintiff shall then file a notice of compliance evidencing service on Defendant.

Defendant's failure to comply with this Order may result in the Court finding it in civil contempt and imposing sanctions against them.

DONE AND ORDERED in Chambers at Miami, Florida, this 20th day of June 2023.



MELISSA DAMIAN
UNITED STATES MAGISTRATE JUDGE

Copies to:
Hon. Cecilia M. Altonaga, *Chief United States District Judge*
Counsel of Record